

# REQUEST FOR PROPOSAL

## NUMBER 10-35

### THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

*Pursuant to § 4.12.040 M.C.L., this solicitation document serves as the written determination of the Purchasing Agent, that the use of competitive sealed bidding is neither practicable nor advantageous to the Metropolitan Government. Therefore, this solicitation will facilitate the entering into of contract(s) by the competitive sealed proposals process.*

**RFP Title:**  
**Telephone-based Management Communication System  
For Metro Nashville Police Department**



**Procurement Staff Contact:**  
**Terry Griffith**  
**Contract Specialist**

This proposal solicitation document is prepared in a Microsoft Word (Office for Windows) format. Any alterations to this document made by the proposer may be grounds for rejection of proposal, cancellation of any subsequent award, or any other legal remedies available to the Metropolitan Government.

## NOTICE TO PROPOSERS

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There may be one or more amendments to this proposal solicitation. If your company desires to receive copies or notices of any such amendments, you must provide the information requested below to Metro Purchasing. Please send this information to Jan Wiles via fax at (615) 862-6179 or by e-mail at [jan.wiles@nashville.gov](mailto:jan.wiles@nashville.gov). **Metro will send amendments only to those firms which timely complete and return this form via fax or provide the requested information by timely e-mail.**

RFP number      10-35

Company name      \_\_\_\_\_

Mailing address    \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone number      \_\_\_\_\_

Fax number          \_\_\_\_\_

Contact person     \_\_\_\_\_

Email address       \_\_\_\_\_

***Send amendments by (check one):***      ☐ Email  
   ☐ Fax

Emailed amendments will be sent in a Microsoft Word (Office for Windows) format. Any alterations to the document made by the proposer may be grounds for rejection of proposal, cancellation of any subsequent award, or any other legal remedies available to the Metropolitan Government.

Amendments also will be posted on the Metro Government Purchasing web site (<http://www.nashville.gov/bob/index.asp>) and attached to the solicitation listing as a PDF file. Check the Business Opportunities Bulletin web page for the particular proposal solicitation for any posted amendments.

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**Request for Proposals**  
**RFP Title:**  
***Telephone-based Management Communication System***  
***For Metro Nashville Police Department***

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**All Proposals Submitted are Public Record after Award.**  
**Submission of a proposal is an official waiver of confidentiality statements.**

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**1) Introduction/Overview**

**A. Purpose**

The Metropolitan Government of Nashville and Davidson County ("METRO") is requesting sealed proposals from qualified firms for the purchase of the following products and services:

***telephone-based hotline system that lets Metro Nashville Police Department (MNPd) employees communicate their ideas, suggestions, concerns and questions directly to MNPd management in a confidential manner.***

**B. Objective**

The objective to be met through the award of the Request for Proposal is to enter into (a) Five (5) year contract(s) with the selected supplier(s) to achieve the Purpose listed above. The contract may be reviewed annually for continuation.

**C. Scope of Services**

- The contractor will provide access to a toll-free telephone number for all MNPd employees.
- The contractor will provide one or more private voicemail boxes so eligible MNPd employees can leave a recorded message. Details regarding use of the private voicemail boxes will be determined jointly by MNPd management and the contractor.
- The contractor will record all telephone calls from MNPd employees and provide MNPd management with written transcripts of all calls when requested by Metro.

**D. Background**

The Metro Nashville Police Department (MNPd) has had an anonymous, toll-free telephone-based management feedback system for the past five years and wishes to continue this practice. MNPd employees have access to this system so

they can communicate their ideas, suggestions, concerns and questions directly to management in a confidential manner.

**E. Inquiries**

Direct questions related to this RFP to Terry Griffith, and submit such questions in writing. Include the RFP number, page, and paragraph number for each question.

If you mail the questions to the Division of Purchases, do not place the RFP number on the outside of the envelope containing questions, as it may be improperly identified as an envelope with a sealed proposal and may not be opened until after the official RFP due date.

Send all questions by fax or email to Terry Griffith at the Division of Purchases, by fax at (615) 862-6179 or via email at [Terry.Griffith@nashville.gov](mailto:Terry.Griffith@nashville.gov). Offerors must clearly understand that the only official answer or position of the government will be the one stated in writing.

**F. Method of Source Selection**

Metro is using the Competitive Sealed Proposals method of source selection, as authorized by Section 4.12.040 of the Metropolitan Procurement Code, for this procurement.

Award(s), if made, will be made to the **Responsive** and **Responsible** Offeror(s) whose proposal is most advantageous to Metro, taking into consideration price and the other factors set forth in this Request for Proposal (RFP). Metro will not use any other factors or criteria in the evaluation of proposals received.

Metro may, as it deems necessary, conduct discussions with **Responsive** and **Responsible** Offeror(s) determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to solicitation requirements.

**G. Pre-Proposal Conference**

A Pre-Proposal Conference will be held.

If stated above that it will be held, it will occur on **March 22, 2010**, at 1:00 PM in training room on 6th floor, located at 222 3rd Avenue North, Nashville TN 37201. Metro urges all prospective offerors to attend.

**H. Minimum (general) criteria to be determined “Responsive”**

- Does the proposal submitted conform in all material respects to the solicitation?
- Specific examples include: Were minority-owned and/or woman-owned business enterprises (MWBE) considered and contacted in a timely manner

for this contract proposal (Good Faith Effort)? Was sufficient documentation provided with the proposal to demonstrate that Good Faith Efforts were made?

**I. Minimum (general) criteria to be determined “*Responsible*”**

- Does the Offeror demonstrate an understanding of Metro’s needs and proposed approach to the project?
- Does the Offeror possess the ability, capacity, skill, and financial resources to provide the service?
- Can the respondent take upon itself the responsibilities set forth in the RFP (and resultant contract) and produce the required outcomes timely?
- Does the Offeror have the character, integrity, reputation, judgment, experience, and efficiency required by the contract?
- Has the Offeror performed satisfactorily in previous contracts of similar size and scope; or, if the prime contractor has not performed a contract of similar size and scope, has it (and/or its team members) otherwise demonstrated its capability to perform the contract Metro seeks to establish through this RFP?
- Does the Offeror propose to perform the work at a fair and reasonable cost?

**J. Projected Timetable**

The following projected timetable should be used as a working guide for planning purposes. Metro reserves the right to adjust this timetable as required during the course of the RFP process.

<b><u>Event</u></b>	<b><u>Date</u></b>
RFP Issued	March 10, 2010
Deadline for submittal of questions	March 24, 2010
Pre-Proposal Conference	March 22, 2010
Amendment Issued for Pre-Proposal Conference	ASAP
Proposals Due	April 7, 2010
Procurement Nondiscrimination Program Review	ASAP
Evaluation of Criteria Begins	ASAP
Complete Evaluation of Proposals (Short List)	ASAP
Complete Contract Negotiations/Execute Contract	ASAP

**2) Constraints on the Contractor**

- Identity of MNPD callers will not be revealed by contractor to MNPD management or to anyone else. All calls will be confidential. The contractor will not attempt in any way to identify any caller or to trace any telephone call.

- The contractor will not provide MNPd management or any Metro official or employee with any electronic recordings or any telephone records from which the identity of the caller may be determined except in cases of unlawful acts or threats.
- The contractor will not reveal any MNPd-related information that it receives through the hotline to any person, organization, company or firm without the written permission of MNPd management and the Metro Legal Department.

### 3) Functional Requirements

The only functional requirement of this procurement is to meet the stated Objective outlined in §1.A. within the Scope identified in §1.C.

### 4) Contractor Personnel Requirements

NA

### 5) Contractor Responsibilities

NA

### 6) Metro Departmental Responsibilities

NA

### 7) Metro's Right to Inspect

Metro shall have the right to inspect any facility or project site where the services performed under the resultant contract are performed.

### 8) Terms and Conditions of Contract

A contract resulting from this RFP shall be subject to the terms and conditions set forth in the attached Contract.

### 9) Procurement Nondiscrimination Program Requirements

#### **A. The consideration and contact of minority-owned and/or woman-owned business enterprises (MWBE) with a significant presence in the Nashville MSA is required for a *Responsive offer***

Metro's Business Assistance Office (BAO) will provide a listing of known Metro registered and certified MWBE firms. You are encouraged to reach out and develop additional MWBE firms for inclusion in your offer but they must be registered online with Metro prior to the proposal time and date. Certification is required by the time of the proposal due date.

#### **B. The provision of the following items as part of the proposal package is a minimum requirement for a responsive proposal** **Covenant of Nondiscrimination**

Your firm has committed to the Covenant of Nondiscrimination when registering with Metro to do business. To review this document, go to [Nashville.gov](http://Nashville.gov) and visit the Procurement or Business Assistance web pages (it is NOT necessary to resubmit this with each proposal).

**Statement of Interested, Notified, Bid Amount, and Successful MWBEs Selected.**

Each proposer must provide the enclosed form indicating that the proposer has delivered written notice to at least three (3) available MWBEs if use of MWBEs is reasonable and if BAO can provide at least three MWBEs for the applicable category. The interested, notified, successful, and unsuccessful bid prices are one of the several required responses on the form.

**Letter of Intent to Perform as a Subcontractor/Joint Venture.**

In the event that a proposer submits the use subcontractors, suppliers, and/or joint ventures, a letter of intent signed by both the subcontractor/supplier/joint venturer must be submitted to Procurement by the end of the second business day following issuance of the intent to award letter.

**Registration and Certification.**

To be considered for the purpose of being Responsive, the subcontractor, supplier and/or joint venturer must be registered online with Metro by the proposal due date. Certification is required by the time of the proposal due date.

**C. Assistance in Locating an Minority-Owned or Woman Owned Businesses**

Proposers who desire assistance in locating potential MWBE subcontractors and suppliers are encouraged to contact The BAO by email at [BAO@Nashville.gov](mailto:BAO@Nashville.gov) or call The BAO at (615) 880-2814.

**10) Assistance to Small Businesses as Subcontractors and Suppliers**

**A. Incentive for Small Business Participation**

Metro provides an incentive to Proposers to maximize the usage of small businesses in the performance of the contract. In the evaluation of proposals, Metro rewards Proposers for committing to use small businesses as subcontractors by considering the minimum percentage of total contract dollars of committed small business subcontractor participation. In addition, if the Proposer is a small business, Metro rewards the Proposer for the amount of work it commits to self perform.

**B. Assistance in Locating Small Businesses**

Proposers who desire assistance in locating potential small business subcontractors and suppliers are encouraged to contact The BAO by email at [BAO@Nashville.gov](mailto:BAO@Nashville.gov) or call The BAO at (615) 880-2814.

**C. Definition of Small Business**

A "small business" means a United States business which is independently owned and operated and which is not dominant in its field of operation or an affiliate or subsidiary of a business dominant in its field. In addition, in order to



qualify as a small business for purposes of this RFP, a business must meet the standards set forth in Metro's Small Business Standards included as an Attachment to this RFP.

#### **D. Documentation Requirements**

Proposer must complete the *List of Proposed Small Businesses* Exhibit to this RFP and submit the Exhibit with the Proposal to make a commitment to use subcontractors that claim small business status. Changes to the list of proposed small businesses must be submitted in writing and approved in advance by Metro. Proposer must confirm that any small businesses to be included in its proposal meet the small business standards set forth by Metro. Proposer shall likewise notify its proposed small businesses that Metro requires 1) that the subcontractor be registered to do business with Metro, and 2) have been approved as a small business through the submission to Metro of documentation to confirm small business status including a copy of their two most recently submitted business tax returns as well as IRS form 941-Employer's Quarterly federal tax return. This information will be reviewed by Metro and used to confirm the small business status. Small business status must be approved by Metro **prior** to proposal submission. ***While Metro commits to having documents reviewed and status granted as quickly as possible after the receipt of the necessary documentation, to be safe, documents should be submitted no later than four days before the bid/proposal is due to allow time for status to be granted.***

#### **E. Progress Payments to the Contractor**

As a condition of progress payments to the contractor, Metro will require that Contractor submit evidence of participation of and Contractor's payment to all small businesses participating in any resultant Contract. This evidence shall be submitted with each invoice and shall include copies of subcontracts, subcontractors' applications for payment, subcontractors' certified payrolls, and proof of payment to small business subcontractors; and purchase orders, Invoices, and proof of payment to small business suppliers.

#### **F. Metro Remedies for Misrepresentation**

If, during the course of the Contract, Contractor fails to maintain the level of small business participation committed to in the Contractor's Proposal, or if any material representation made in Contractor's proposal concerning the small business status of any Subcontractor or Contractor's involvement in the ownership, operation or management of any subcontractor claiming status as a small business is shown to be false. Metro may, at its sole option and in addition to any other remedies available under the Contract, at law or in equity, terminate the Contract. Further, in the event that Metro terminates the contract, the Contractor shall pay Metro's full reprocurement costs, including, without limitation, any costs associated with reprocurement delays. Metro will institute debarment proceedings against any Proposer that misrepresents in a proposal any material fact concerning the small business status of itself or any subcontractor or Proposer's involvement in the ownership, operation, or management of any subcontractor claiming status as a small business. In addition, Metro may, at its sole discretion, assess a charge representing the cost



complete proposal response including any attachments, on a WINDOWS PC compatible CD.

Proposals will be opened publicly in a manner to avoid public disclosure of contents; however, only names of the Proposers will be read aloud.

List the Proposal Number on the outside of the box or envelope and note, "Request for Proposal enclosed".

#### **D. Evaluation of Proposals (Procedure)**

Metro will first examine proposals to eliminate those, which are clearly non-responsive to the stated requirements. Therefore, Offerors should exercise particular care in reviewing the Proposal Format required for this RFP.

The Office of Minority and Women Business Assistance (BAO) will work with proposers to ensure effort was made to satisfy the Procurement Nondiscrimination Program requirements. However, after limited engagement, if a firm fails to demonstrate effort to achieve this requirement, the BAO will request of the Purchasing Agent that the proposal be determined non-responsive.

Proposers who are determined to be non-responsive and/or non-responsible will be notified of this determination. The remaining proposers will also be notified.

The evaluation committee will then score all responsive and responsible proposals based upon the evaluation criteria detailed herein. Upon completion of the initial scoring, the committee may recommend a single finalist or enter into a short-listing process with those offerors whose proposals are determined to be in the competitive range.

The detailed evaluation process that follows the initial scoring may result in, but not limited to, a series of requests of the offerors for clarifications, additional discussions, presentations, amended proposals, contract negotiations, best and final offers, and/or detailed reference checks. This process may involve multiple short-listing rounds for the purpose of achieving contracts that are in the best interests of Metro as determined by the evaluation committee.

The method used for scoring objective criteria (cost, small business participation, time of completion, etc.) shall be based on comparison of all responsive and responsible proposals.

Other criteria scores may be adjusted upward or downward during discussions. This movement will result from further detailed review of short listed proposals and consideration of additional information received through discussions and written submittals. However, the points will not exceed the total points available for that evaluation criterion.

If, during discussions, Metro discovers modification of requirements is necessary, the request will be amended. Subsequent scorings may be based on comparison of only the short listed proposers.

At any time during the evaluation process, it is determined that a proposal is non-responsive or non-responsible, that proposal will be removed from consideration for award and all proposers notified of this decision.

Metro reserves the right to contact any and all references to obtain, without limitation, information regarding the Offeror's performance on previous projects. A uniform sample of references will be checked for each short-listed offeror.

The Metro Purchasing Agent reserves the right to withdraw this RFP at any time and for any reason and to issue such clarifications, modifications, and/or amendments as it may deem appropriate.

Receipt of a proposal by the Metro Procurement Division or a submission of a proposal to the Metro Procurement Division offers no rights upon the Offeror nor obligates the Metropolitan Government of Nashville-Davidson County in any manner.

The Purchasing Agent reserves the right to waive minor irregularities in proposals, provided that such action is in the best interest of Metro. Any such waiver shall not modify any remaining RFP requirements or excuse the Offeror from full compliance with the RFP specifications and other contract requirements if the Offeror is awarded the Contract.

In order to complete the evaluation process faster, list the name, address, phone number, fax number, and email address of the person capable of answering any questions that may arise during the evaluation process.

**(Please Print or Type)**

Company Name: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City/ST/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

**E. Ambiguity, Conflict, or Other Errors in the RFP**

If a Proposer discovers any ambiguity, conflict, discrepancy, omission, or other error in the Request for Proposal, it shall immediately notify the Metro Procurement Division such error in writing and request modification or clarification of the document. The Department of Purchasing will make modifications by issuing a written revision and will give written notice to all parties who have received this RFP from the Metro Procurement Division.

The Proposer is responsible for clarifying any ambiguity, conflict, discrepancy, omission, or other error in the Request for Proposals prior to submitting the proposal or it shall be waived.

**F. Proposals and Presentation Costs**

Metro will not be liable in any way for any costs incurred by any Offeror in the preparation of its proposal in response to this RFP, nor for the presentation of its proposal and/or participation in any discussions or negotiations.

**G. Rejection of Proposals**

The Purchasing Agent reserves the right to accept or reject in whole or in part, any or all proposals submitted. The Purchasing Agent shall reject the proposal of any Offeror that is determined to be non-responsive. The unreasonable failure of an Offeror to promptly supply information in connection with respect to responsibility may be grounds for a determination of non-responsibility.

**H. Acceptance of Proposals**

The Purchasing Agent shall accept all proposals that are submitted properly. However, the Purchasing Agent, or designee, reserves the right to request clarifications or corrections to proposals.

**I. Requests for Clarification of Proposals**

Requests by the Evaluation Committee for clarification of proposals shall be distributed by the Procurement Staff in writing (or email).

**J. Validity of Proposals**

All proposals shall be valid for a period of ninety (90) days from the opening date of the Request for Proposal.

**12) Evaluation Criteria**

**A. Proposal Evaluation Committee**

A committee appointed by the Metropolitan Government Purchasing Agent will evaluate proposals. Other agencies and consultants of the Government also may examine documents. The committee will make recommendation(s) to the Purchasing Agent to consider.

**B. Response Format**

The information listed below shall be submitted with each proposal and should be submitted in the order shown. Each section should be clearly labeled, with pages numbered and separated by tabs. Failure by an offeror to include all listed items may result in the rejection of its proposal.

**C. Evaluation Criteria (Factors)**

The factors to be considered in the evaluation of proposals are listed below. While Metro believes all these items to be of importance, their relative weight is indicated by the points each evaluation criteria could receive. Within each evaluation criteria, subsets of the criterion may be defined to clarify the point distribution for that evaluation criteria. Award(s) will be made to the responsible offeror whose proposal is determined to be the most advantageous to the Metropolitan Government of Nashville and Davidson County. No other factors or criteria will be used in the evaluation.

- **Tab I, Business Plan**

**Total points available for this criterion are 20 points.**

- Open with a cover letter indicating the underlying philosophy of your firm in providing the requested service/product. Express your understanding of the contract scope and the desired deliverables.
- Provide a detailed plan of your firm's proposed approach (including major tasks and sub-tasks).
- Address the functional requirements of this solicitation.
- Include a proposed quality assurance plan your firm will conduct to ensure the performance of contract deliverables.
- Identify potential risks associated with the execution of this contract and how your firm proposes mitigating those risks.
- Attached at the end of this solicitation is the proposed contract. Those respondents submitting a signed and notarized contract, without exceptions, will receive the maximum consideration for this portion of the business plan evaluation. You may, in your response, indicate exceptions to the general terms and conditions of the RFP but scores will reflect Metro's assessment of the impact for these considerations and may reject the proposal as non-responsive if, in the evaluation of METRO, the requested changes are unacceptable.
- 

- **Tab II, Experience and Qualifications**

**Total points available for this criterion are 20 points.**

- Include the description of the proposed team, and the role to be played by each member of the proposed team
- What are the proposed team's organizational structure, interrelationships, and interactions?
- Include the résumés of all managers, senior level supervisors, and key personnel (indicate if they are a subcontractor) who will be involved in providing the required services.

- What license(s) and certification(s) do these individuals have that would convey their ability to perform this contract?
- Estimated number of hours each person will contribute to the project/contract.
- Address your firm's financial health to completely perform the contract. Identify any areas of concern or limitations that Metro should consider.
- 

- **Tab III, Compensation and Cost Data**

**Total points available for this criterion are 30 points.**

- 
- Address any warranty and/or extended warranty costs.
- Address any licensing or maintenance costs.
- Include any additional lifecycle costs.
- Identify potential cost overrun risks associated with the execution of this contract and how your firm proposes mitigating those risks.

- **Tab IV, Capacity and Ability to Meet Scheduling Requirements**

**Total points available for this criterion are 10 points.**

- What is your understanding of the delivery requirements for this contract?
- Describe in detail how your firm is structured to ensure timely delivery of these services/products.
- What delivery concerns do you have in performing this contract?
- How does your firm propose mitigating these concerns?
- 

- **Tab V, Past performance and References**

**Total points available for this criterion are 10 points.**

- Provide a listing of ten (10) previous customers that purchased your services/product that were of similar size and scope. The services provided to these clients should have characteristics as similar as possible to those requested in this RFP.
- Information provided for each client shall include the following:
  - a) Client name, address, email, and current telephone number
  - b) Description of services provided
  - c) Time period of the project or contract
  - d) Budgeted amount and final billing amount (explain any cost variance)

*Failure to provide complete and accurate client information, as specified here, may result in the disqualification of your proposal and will be reflected in the scoring.*

- **Tab VI, Small Business Participation**

**Total points available for this criterion are 10 points.**

- The *List of Proposed Small Businesses* must be completed and signed by a company officer empowered to bind the Proposer to the provisions in this RFP and any contract awarded pursuant to the PRP. The Proposer must submit a *List of Proposed Small Businesses* OR a statement that no Small Businesses are proposed.
- The maximum points available for this criterion are listed above. However, the minimum requirement level is no more than 1 point granted for each 1% of total contract value for small business utilized.



Attachments A  
**Procurement Nondiscrimination Program Forms**  
**Form Submission Procedures**

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Demonstrating compliance with the Procurement Nondiscrimination Program requires the submission of the following forms:

1. **Statement of Good Faith Efforts**- This completed form is required at the time of bid/proposal submission. Each of the first three listed statements must be initialed by an authorized company official indicating that the prime contractor has made all of the good faith efforts required by the Procurement Nondiscrimination Program. Prime contractors should initial any of the additional good faith efforts listed subsequently on the form as they are applicable.

This form must be signed by a principle of your company and dated.

2. **Statements of Interested, Notified, and Successful Subcontractors** – This completed form is required at the time of bid/proposal submission to provide Metro with information regarding your outreach efforts. The first section of this form should list those firms that have contacted you as well as those with whom you have made contact regarding potential participation on this project. The second section of this form should list the MWBE subcontractors with whom you have decided to work with on this project if awarded.

Submitted forms should be fully completed and specify the MWBE company names, individual(s) contacted, date contacted, M/WBE Certificate Type, percentage of total contract value to be awarded, a description of the work to be performed, and the UNSPS Code of the work. A copy of the codes can be provided upon request to the BAO.

**NOTE: Reasons for declining offers made by potential MWBE partners must be noted on this form.**

This form must be signed by a principle of your company and dated.

3. **Letter of Intent to Perform as a Subcontractor/Joint Venture**--This form is to be completed and submitted by the apparent successful participant **by the end of the second business day following notice of intent to award from Metro**. It should specify the names of the MWBEs with whom the prime contractor intends to subcontract or joint venture. Additionally it should detail the work to be performed, the total value of the MWBE participation on the contract in dollars and percentage and must be signed by both the MWBE subcontractor/joint venture partner AND the prime contractor and dated.

**NOTE: A separate form must be completed for each individual MWBE subcontractor/joint venture partner.**

**Any additional questions regarding required detail and documentation to demonstrate Procurement Nondiscrimination Program compliance should be directed to the Business Assistance Office at 615-880-2814.**

**Attachment A (continued)**  
**Good Faith Efforts**

**Subject: Proposal for** \_\_\_\_\_  
(Name of Project)

**Pursuant to the requirements for Participants under the Procurement Non-Discrimination Program, and in consideration of the privilege to submit Proposals on contracts funded, in whole or in part, by the Metropolitan Government, I/We, attest that I/We have made the following efforts to ensure that potential MWBE subcontractors were notified of the opportunity to participate as a subcontractor or joint venturer on this project.**

- \_\_\_\_\_ I/We have made efforts to include certified MWBE's in the procurement process and to ensure that businesses are not discriminated against on the basis of race, ethnicity or gender;
- \_\_\_\_\_ I/We have delivered appropriate written notice to three available certified MWBEs for each potential subcontracting or supply category in the Contract AND all potential subcontractors or vendors which requested information on the Contract.
- \_\_\_\_\_ I/We have provided all potential subcontractors or vendors with adequate information as to the plans and specifications of this project, information necessary to provide a bid or quote, relevant terms and conditions of any resultant contract and the last date and time for receipt of price quotations.

**Additionally, \_\_\_\_\_ has made the following Good Faith Efforts to include MWBEs as subcontractors or joint venturers on this project.**

- \_\_\_\_\_ I/We have attended a special meeting called to inform business and individuals of subcontracting or supply opportunities.
- \_\_\_\_\_ I/We have, in accordance with normal industry practices, divided the contract into economically feasible segments that can be performed by a MWBE.
- \_\_\_\_\_ I/We have provided a written explanation for rejection of any potential subcontractor or vendor to the BAO, included the name of the firm proposed to be awarded the subcontract or supply agreement, where price competitiveness is not the reason for rejection.
- \_\_\_\_\_ I/We have actively solicited, through sending letters or initiating personal contact, MWBEs in all feasible and appropriate categories providing subcontracting opportunities for the contract under consideration.
- \_\_\_\_\_ I/We have utilized the services of available community organizations and associations, contractors' groups, and trade associations known to publicize contracting and procurement opportunities, for the purpose of obtaining assistance

in the contacting and recruitment of MWBEs for the Metropolitan Government contract under consideration.

\_\_\_\_\_ I/We have advertised in publications of general circulation in the Nashville Metropolitan Statistical Area ("MSA"), trade publications and other media owned by, or otherwise focused or marketed to MWBEs, and the advertisement identifies and describes the specific subcontracting or other opportunity in reasonable detail.

\_\_\_\_\_ I/We have conducted discussions with interested MWBEs in good faith, and provided the same willingness to assist MWBEs as has been extended to any other similarly situated subcontractor.

\_\_\_\_\_ I/We have taken steps to ensure that all labor supervisors, superintendents, and other on-site supervisory personnel are aware of and carry out the obligation to maintain a non-discriminatory work environment, free of harassment, intimidation and coercion at all construction sites, offices and other facilities to which employees are assigned to work.

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Printed Name of Company Official

Date

---

Signature

Title of Company Official

---

Fully Company Name

Mailing Address

---

Area Code/Phone Number

City, State, Zip

Please contact the Business Assistance Office (615) 880-2814 with any questions about information which may be required.



STATEMENTS OF INTERESTED, NOTIFIED AND SUCCESSFUL SUBCONTRACTORS

Please complete this form to provide Metro with information regarding your outreach efforts. Please include information appropriately regarding those certified MWBEs that you contacted, who contacted you and those that you have decided to work with on this project. Please add additional copies of this sheet as necessary so that you may list ALL MWBEs with whom you've had contact. Please contact the Business Assistance Office with any questions at 615-880-2814.

Project Name \_\_\_\_\_ RFP/ITB Number \_\_\_\_\_

As part of our regular and customary good faith efforts to include MWBE subcontractors, suppliers and joint venturers, \_\_\_\_\_ (Company Name) \_\_\_\_\_ has contacted or was contacted by the following certified MWBEs related to our bid/proposal.

Business Name & Contact	Phone No	MBE/WBE Certificate Type	Date of Contact	Method of Contact	Who Initiated Contact?	If Bid Submitted, Amount of Bid*	Offer Accepted or Declined	Reason(s) for Declining

\*STATEMENT OF BID/PRICE QUOTATION

Having submitted a Proposal/bid for the above referenced project, if awarded the contract, \_\_\_\_\_ (Company Name) \_\_\_\_\_ advises that contingent upon award of the contract to our company, our subcontractor, suppliers, or joint venture partnership participation is projected to be as follows:

Business Name & Contact	Phone No	MBE/WBE Certificate Type	Dollar value	Estimated % of total contract value	UNSPS Code # for work to be performed	Work to be performed

Name \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

**Attachment A (continued)**  
**Letter Of Intent To Perform As A**  
**Subcontractor/Joint Venture**

**This form is to be completed and submitted by the apparent successful participant by the end of the second business day following notice of intent to award.**

Proposal for \_\_\_\_\_  
(Name of Project)

Prime Contractor Name

The undersigned has agreed to perform work in connection with the above project as:

☐

a subcontractor

☐

a joint venture

Detailed description of work items to be performed:

At the following price(s): \$ \_\_\_\_\_

The total value of MWBE participation under this Subcontractor/Joint Venture Agreement is \$ \_\_\_\_\_; which is estimated to be \_\_\_\_\_% of the total Proposal.

\_\_\_\_\_  
Signature of Subcontractor/Joint Venturer

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

The undersigned will enter into a written agreement with the above subcontractor for the work described upon award and execution of a contract with The Metropolitan Government.

\_\_\_\_\_  
Signature of Prime Contractor

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Attachment B**  
**Affidavits**

**State of** \_\_\_\_\_ **County of** \_\_\_\_\_

*As used herein, "Offeror" will include bidders and proposers.*

**Compliance with Laws:** After first being duly sworn according to law, the undersigned (Affiant) states that he/she is the \_\_\_\_\_ (Title) of \_\_\_\_\_ (Offeror), and that Offeror is presently in compliance with, and will continue to maintain compliance with, all applicable laws. Thus, Affiant states that Offeror has all applicable licenses, including business licenses, copies of which are attached hereto. Finally, Affiant states that Offeror is current on its payment of all applicable gross receipt taxes and personal property taxes.

**Contingent Fees:** In accordance with METRO's 1992 Procurement Code, it is a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a METRO contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. After first being duly sworn according to law, the undersigned (Affiant) states that the Offeror has not retained anyone in violation of the foregoing.

**Nondiscrimination:** Contractor, after being first duly sworn, affirms that by its employment policy, standards and practices it does not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, religion, color, national origin, age or sex and that it is not in violation of and will not violate any applicable laws concerning the employment of individuals with handicaps and/or disabilities. It is the policy of the Metropolitan Government not to discriminate on the basis of age, race, sex, color, religion, national origin or handicap and/or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services and activities. With regard to all aspects of this contract, contractor certifies and warrants it will comply with this policy.

**And Further Affiant Sayeth Not:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Sworn to and subscribed before me on this \_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

## Attachments C

### **Guidelines for Assistance to Small Businesses**

I. Assistance to Small Businesses as Prime or Subcontractor for Construction and/or Other Services

The Metropolitan Government of Nashville and Davidson County (Owner) has established guidelines, which provide incentives to maximize the participation of Small Businesses as Prime or Subcontractor for construction and/or other services.

II. Small Businesses as Prime or Subcontractor for Construction and/or Other Services

This section provides the definition of a Small Business as contained in the Metropolitan Procurement Code, and the additional criteria for Small Business status as set forth in the Regulations to the Metropolitan Procurement Code.

***A Small Business satisfies all of the following criteria:***

- (a) A United States business which is independently owned and operated, and which is not dominant in its field of operation or an affiliate or subsidiary of a business dominant in its field of operation;
- (b) Either has no more than the following number of employees or has no more than the following annual sales volume for the applicable industry; and

INDUSTRY	ANNUAL SALES VOLUME	MAXIMUM NUMBER OF EMPLOYEES*
Agriculture, Forestry, Fishing	\$500,000	9
Architectural/Design/Engineering	\$2,000,000	30
Construction	\$2,000,000	30
Educational	\$1,000,000	9
Finance, Insurance, Real Estate	\$1,000,000	9
Information Systems/Technology	\$2,000,000	30
Manufacturing	\$2,000,000	99
Marketing/Communications/Public Relations	\$2,000,000	30
Medical/Healthcare	\$2,000,000	30
Mining	\$1,000,000	49
Retail Trade	\$750,000	9
Service Industry	\$500,000	9
Transportation, Commerce, and Utilities	\$1,000,000	9
Wholesale Trade	\$1,000,000	19

- (c) Meets the following additional criteria:
1. Has demonstrated capability to perform independently a substantial portion of the contract they seek, or a substantial portion of the subcontract for which they are proposed by a bidder or offeror, as specified by the Purchasing Agent;
  2. Not share or jointly use office space, production, marketing and sales, business support systems, personnel, or equipment with any business not classified by Metro as a small business (i.e., a large business);
  3. Has existed as a legal business entity for a minimum of one year (twelve months of continuous business enterprise), performing independently and satisfactorily and achieving a minimum of \$35,000.00 sales income (collected sales dollars not simply booked sales);
  4. Not be owned, controlled, or directed by individuals or groups of individuals who own, control, or direct a large business involved in the same category of work as the business for which small business status is sought;
  5. If a supplier, be an authorized regular distributor with normal wholesale agreements for the Product or products to be supplied; and
  6. If a construction contractor, be licensed as required by the state to perform the work for which it has submitted a bid or has been proposed by a prime as a subcontractor.

\*NOTE: Employee means a person (or persons) employed on a full-time (or full-time equivalent), a permanent basis. Full-time equivalent includes employees who work 30 hours per week or more. Full-time equivalent also includes the aggregate of employees who work less than 30 hours a week, where the work hours of such employees add up to at least a 40 hour work week.

The totality of the circumstances, including factors relevant for tax purposes, will determine whether persons are employees of a concern. Temporary employees, independent contractors or leased employees are not employees for these purposes. The owner(s) are excluded from this classification.

### **SMALL BUSINESS STATUS**

If Firms desire to claim the status as a small business, they must

- 1) Be registered to do business with Metro at <https://smartrac.nashville.gov/newvendorlogin.aspx> , and
- 2) Have been approved as a small business through the submission to Metro of documentation to confirm small business status including a copy of their two most recently submitted business tax returns as well as IRS form 941- Employer's Quarterly federal tax return.

This information will be reviewed Metro's BAO and used to confirm the small business status. Small business status must be approved by Metro **prior** to submission. ***While Metro commits to having documents reviewed and status granted as quickly as possible after the receipt of the necessary documentation, to be safe, documents should be submitted no later than four days before the proposal opening date to allow time for status to be granted.***



**Attachments D**  
**List of Proposed Small Businesses for RFP \_\_\_\_\_**

Proposer Name: \_\_\_\_\_

Notice: Small businesses listed must be registered with Metro and small business status must be approved by Metro **prior** to proposal submission. Registration can be completed online at: <https://smartrac.nashville.gov/newvendorlogin.aspx>

	Small Business Name	Small Business Address, Phone Number and email address	Industry of Work to be Performed by this Small Business (see <i>Instructions below this table</i> )	Phase in project when Small Business is <b>anticipated</b> to perform work	Minimum Amount & <i>Percentage</i> of total contract dollars to be spent with this Small Business
1.					
2.					
3.					
4.					
5.					
6.					

**INSTRUCTIONS:**

- If the proposer is a small business, the proposer should also be included in this list.
- If more than six (6) Small Businesses are to be listed, please attach an additional sheet.
- For the "Industry of Work to be Performed by this Small Business" column, you must enter an Industry listed here: Agriculture, Architectural/Design/Engineering; Educational; Information Systems/Technology; Marketing/Communications/Public Relations; Medical/Healthcare; Forestry, Fishing; Mining; Construction; Manufacturing; Wholesale Trade; Retail Trade; Finance, Insurance, Real Estate; Transportation, Commerce, and Utilities; Service Industry

**TOTAL** \_\_\_\_\_

Submission of a proposal shall constitute Proposer's representation that neither Proposer nor an officer, agent or employee of Proposer, or the spouse, parent or child of an officer, agent or employee of Proposer, is involved in the ownership, operation or management of any subcontractor claiming status as a small business for purposes of this Proposal and Contract.

\_\_\_\_\_  
 Name and Title of Person submitting this form



**CONTRACT BETWEEN  
METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY  
AND  
FOR PURCHASE OF SERVICES**

This contract is initiated by and between **THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY** ("METRO") and ("CONTRACTOR").  
This contract consists of the following documents:

- ***This Contract Document,***
- ***Solicitation, Numbered*** ,
- ***CONTRACTOR's Response, and***
- ***Exhibits:***
  - ***Exhibit A, Pricing,***
  - ***Exhibit B, Escalation/De-escalation (if allowed),***
  - ***Exhibit C, ACH Form for Electronic Payment***
  - ***Exhibit D, Affidavits***
  - ***Exhibit E, Contractor Supplied Insurance Forms,***
  -

In the event of conflicting provisions, all documents shall be construed according to the following priorities:

- ***Any Properly Executed Contract Amendment*** (most recent with first priority),
- ***This Document and All Exhibits,***
- ***Solicitation, Numbered*** , and
- ***CONTRACTOR's Response***

The parties hereby agree to the following terms and conditions:

- I. Duties and Responsibilities of CONTRACTOR.*** CONTRACTOR agrees to provide and METRO agrees to purchase the following services:
- II. Reserved.***
- III. Term.***

- A. The term of this contract will begin on the date this contract is signed by all required parties and filed in the office of the Metropolitan Clerk. METRO contemplates that the contract term will begin on or about \_\_\_\_\_ (beginning date). The initial contract term will end sixty (60) months from the beginning date.
- B. This contract may not be extended by contract amendment. The option to extend shall be exercised by and in the discretion of the Purchasing Agent. In no event shall the term of this contract, including extensions, exceed sixty (60) months from the date of filing with the Metropolitan Clerk's Office.

**IV. Compensation.** This contract has an estimated value of \_\_\_\_\_ over the life of the contract. The pricing details are demonstrated in **Exhibit A**. CONTRACTOR shall be paid as work is completed and METRO is accordingly invoiced based on the following schedule: (check if applicable)

- A. ☐ single payment following completion of contract,
- B. ☐ monthly as work is completed and approved by METRO,
- C. ☐ quarterly as work is completed and approved by METRO,
- D. ☐ as milestones are completed and approved by METRO,
- E. ☐ other (explain) \_\_\_\_\_

There will be no other charges or fees for the performance of this contract. METRO will make reasonable efforts to make payments within 30 days of receipt of invoice but in any event shall make payment within 60 days. METRO will make reasonable efforts to make payments to Small Businesses within 15 days of receipt of invoice but in any event shall make payment within 60 days.

**V. Escalation/De-escalation.** This contractor is eligible for annual escalation/de-escalation adjustments. If the contract is eligible, the request for adjustment must be submitted to the Purchasing Agent no less than sixty (60) days prior to the **annual anniversary** of the contract signing by the contractor. Any such adjustment shall become effective on the anniversary of the filing of the contract with the Metro Clerk's office. The amount of escalation is subject to the process identified in **Exhibit B**.

**VI. Electronic Payment.** Metro requires as a condition of this contract that the Contractor shall complete and sign Metro's form authorizing electronic payments to the Contractor. **Exhibit C**.

**VII. Taxes.** METRO shall not be responsible for any taxes that are imposed on CONTRACTOR. Furthermore, CONTRACTOR understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to METRO.

**VIII. Reserved.**

**IX. Reserved.**

**X. Reserved.**

**XI. Copyright, Trademark, Service Mark, or Patent Infringement.**

- A. CONTRACTOR shall, at its own expense, be entitled to and shall have the duty to defend any suit which may be brought against METRO to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. CONTRACTOR shall further indemnify and hold harmless METRO against any award of damages and costs made against METRO by a final judgment of a court of last resort in any such suit. METRO shall provide CONTRACTOR immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority to enable CONTRACTOR to do so. No costs or expenses shall be incurred for the account of CONTRACTOR without its written consent. METRO reserves the right to participate in the defense of any such action. CONTRACTOR shall have the right to enter into negotiations for and the right to effect settlement or compromise of any such action, but no such settlement or compromise shall be binding upon METRO unless approved by the METRO Department of Law Settlement Committee and, where required, the METRO Council.
- B. If the products or services furnished under this contract are likely to, or do become, the subject of such a claim of infringement, then without diminishing CONTRACTOR's obligation to satisfy the final award, CONTRACTOR may at its option and expense:
1. Procure for METRO the right to continue using the products or services.
  2. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to METRO, so that they become non-infringing.
  3. Remove the products or discontinue the services and cancel any future charges pertaining thereto.
  4. Provided, however, that CONTRACTOR will not exercise option b.3. until CONTRACTOR and METRO have determined that options b.1. and b.2. are impractical.
- C. CONTRACTOR shall have no liability to METRO, however, if any such infringement or claim thereof is based upon or arises out of:

1. The use of the products or services in combination with apparatus or devices not supplied or else approved by CONTRACTOR.
2. The use of the products or services in a manner for which the products or services were neither designated nor contemplated.
3. The claimed infringement in which METRO has any direct or indirect interest by license or otherwise, separate from that granted herein.

***XII.     Termination***

- A. *Breach.* Should CONTRACTOR fail to fulfill in a timely and proper manner its obligations under this contract or if it should violate any of the terms of this contract, METRO shall have the right to immediately terminate the contract. Such termination shall not relieve CONTRACTOR of any liability to METRO for damages sustained by virtue of any breach by CONTRACTOR.
- B. *Lack of Funding.* Should funding for this contract be discontinued, METRO shall have the right to terminate the contract immediately upon written notice to CONTRACTOR.
- C. *Notice by Metro.* METRO may terminate this contract at any time upon thirty (30) days written notice to CONTRACTOR.

***XIII.     Maintenance of Records.*** CONTRACTOR shall maintain documentation for all charges against METRO. The books, records, and documents of CONTRACTOR, insofar as they relate to work performed or money received under the contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by METRO or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles.

***XIV.     Monitoring.*** The CONTRACTOR's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by METRO, the Department of Finance, the Division of Internal Audit, or their duly appointed representatives.

***XV.     METRO Property.*** Any METRO property, including but not limited to books, records and equipment that is in CONTRACTOR's possession shall be maintained by CONTRACTOR in good condition and repair, and shall be returned to METRO by CONTRACTOR upon termination of the contract. All

goods, documents, records, and other work product and property produced during the performance of this contract are deemed to be METRO property.

**XVI. Modification of Contract.** This contract may be modified only by written amendment executed by all parties and their signatories hereto. All change orders, where required, shall be executed in conformance with section 4.24.020 of the Metropolitan Code of Laws.

**XVII. Partnership/Joint Venture.** Nothing herein shall in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No party shall become liable for any representation, act or omission of any other party contrary to the terms of this paragraph.

**XVIII. Waiver.** No waiver of any provision of this contract shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.

**XIX. Employment.**

- A. CONTRACTOR shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, or which is in violation of applicable laws concerning the employment of individuals with disabilities.
- B. CONTRACTOR shall not knowingly employ, permit, dispatch, subcontract, or instruct any person who is an undocumented and/or unlawful worker to perform work in whole or part under the terms of this contract.
- C. Violation of either of these contract provisions may result in suspension or debarment if not resolved in a timely manner, not to exceed ninety (90) days, to the satisfaction of METRO.

**XX. Procurement Nondiscrimination Program Requirements**

- A. The consideration and contact of minority-owned and/or woman-owned business enterprises (MWBE) was required for a *Responsive* offer.
- B. The provision of the following items was a part of the proposal package. The forms for compliance with the Procurement Nondiscrimination Program are made a part of this contract by reference.

- 1. *Covenant of Nondiscrimination*

Your firm has committed to the Covenant of Nondiscrimination when registering with Metro to do business. To review this document, go to Nashville.gov and visit the Procurement or Business Assistance web pages (it is NOT necessary to resubmit this with each proposal/contract.

2. *Statement of Interested, Notified, Bid Amount, and Successful MWBEs Selected.*

Each proposer must provide the enclosed form indicating that the proposer has delivered written notice to at least three (3) available MWBEs if use of MWBEs is reasonable and if BAO can provide at least three MWBEs for the applicable category. The interested, notified, successful and unsuccessful bid prices are one of the several required responses on the form.

3. *Letter of Intent to Perform as a Subcontractor/Joint Venture.*

In the event that a proposer submits the use subcontractors, suppliers and/or joint ventures, a letter of intent signed by both the subcontractor/supplier/joint venturer must be submitted to Procurement by the end of the second business day following issuance of the intent to award letter.

4. *Registration and Certification.*

To be considered for the purpose of being Responsive, the subcontractor, supplier and/or joint venturer must be registered online with Metro by the proposal due date. Certification is required by the filing date of the contract with the Metro Clerk's Office.

**XXI. Compliance with Laws.** CONTRACTOR agrees to comply with all applicable federal, state and local laws and regulations. **Exhibit D.**

**XXII. Contingent Fees.** CONTRACTOR hereby represents that CONTRACTOR has not been retained or retained any persons to solicit or secure a METRO contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under METRO contracts. **Exhibit D.**

**XXIII. Nondiscrimination.** It is the policy of the METRO not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this contract, CONTRACTOR certifies and warrants it will comply with this policy. No person

shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in METRO's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with METRO or in the employment practices of METRO's CONTRACTORS. Accordingly, all Proposers entering into contracts with METRO shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination. **Exhibit D.**

**XXIV. Ethical Standards.** It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefore. It shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under METRO contracts.

**XXV. Insurance.** During the term of this Contract, CONTRACTOR shall, at its sole expense, obtain and maintain in full force and effect for the duration of the Agreement and any extension hereof the types and amounts of insurance identified (**Exhibit F**) below by a checked box and in the solicitation:

- A. ☐ Products Liability Insurance in the amount of one million (\$1,000,000.00) dollars (If the vendor will be shipping to a receiving department of METRO)
- B. ☒ General Liability Insurance in the amount of one million (\$1,000,000.00) dollars
- C. ☐ Professional Liability Insurance in the amount of one million (\$1,000,000.00) dollars



- D. ☒ Automobile Liability Insurance in the amount one million (\$1,000,000.00) dollars (if vendor will be making on-site deliveries)
- E. ☒ Worker's Compensation Insurance with statutory limits required by the State of Tennessee or other applicable laws and Employer's Liability Insurance with limits of no less than one hundred thousand (\$100,000.00) dollars, as required by the laws of Tennessee. (Not required for companies with fewer than five (5) employees.)
- F. ☐ Other Insurance ...
- G. Such insurance shall:
1. Contain or be endorsed to contain a provision that includes METRO, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insureds.
  2. For any claims related to this agreement, CONTRACTOR's insurance coverage shall be primary insurance as respects METRO, its officers, officials, employees, and volunteers. Any insurance or self-insurance programs covering METRO, its officials, officers, employees, and volunteers shall be excess of CONTRACTOR's insurance and shall not contribute with it.
  3. Automotive Liability Insurance including vehicles owned, hired, and non-owned. Said insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes METRO, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of CONTRACTOR.
  4. Worker's Compensation (If applicable), CONTRACTOR shall maintain workers' compensation insurance with statutory limits as required by the State of Tennessee or other applicable laws and employers' liability insurance. CONTRACTOR shall require each of its subcontractors to provide Workers' Compensation for all of the latter's employees to be engaged in such work unless such employees are covered by CONTRACTOR's workers' compensation insurance coverage.
  5. *Other Insurance Requirements.* CONTRACTOR shall:

- a. Prior to commencement of services, furnish METRO with original certificates and amendatory endorsements effecting coverage required by this section and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on 30 days' prior written notice to:

**DEPARTMENT OF LAW  
INSURANCE AND RISK MANAGEMENT  
METRO COURTHOUSE  
1 PUBLIC SQUARE, SUITE 108  
NASHVILLE, TENNESSEE 37201**

- b. Provide certified copies of endorsements and policies if requested by METRO in lieu of or in addition to certificates of insurance.
- c. Replace certificates, policies, and/or endorsements for any such insurance expiring prior to completion of services.
- d. Maintain such insurance from the time services commence until services are completed and attach the certificates of insurance in the METRO system. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by METRO as a material breach of lease.
- e. Place such insurance with insurer licensed to do business in Tennessee and having A.M.Best Company ratings of no less than A-. Modification of this standard may be considered upon appeal to the METRO Director of Risk Management Services.
- f. Require all subcontractors to maintain during the term of the agreement Commercial General Liability insurance, Business Automobile Liability insurance, and Worker's Compensation/Employers Liability insurance (unless subcontractor's employees are covered by CONTRACTOR's insurance) in the same manner as specified for CONTRACTOR. CONTRACTOR shall file subcontractor's certificates of insurance in METRO's system.
- g. Any deductibles and/or self-insured retentions greater than \$10,000.00 must be disclosed to and approved by METRO prior to the commencement of services.
- h. If the CONTRACTOR has or obtains primary and excess policy(ies), there shall be no gap between the limits of the primary policy and the deductible features of the excess policies.

**XXVI. Indemnification and Hold Harmless.** CONTRACTOR will indemnify and hold harmless METRO, its officers, agents and employees from:

- A. Any claims, damages, costs and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of CONTRACTOR, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of the contract, and,
- B. Any claims, damages, penalties, costs and attorney fees arising from any failure of CONTRACTOR, its officers, employees and/or agents, including its sub or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- C. METRO will not indemnify, defend or hold harmless in any fashion the CONTRACTOR from any claims arising from any failure, regardless of any language in any attachment or other document that the CONTRACTOR may provide.
- D. CONTRACTOR shall pay METRO any expenses incurred as a result of CONTRACTOR's failure to fulfill any obligation in a professional and timely manner under this Contract.

**XXVII. Attorney Fees.** CONTRACTOR agrees that in the event either party takes legal action to enforce any provision of the contract or to obtain a remedy for any breach of this contract, and in the event METRO prevails in such action, CONTRACTOR shall pay all expenses of such action incurred at any and all stages of the litigation, including costs, and reasonable attorney fees for METRO.

**XXVIII. Assignment--Consent Required.** The provisions of this contract shall inure to the benefit of and shall be binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to CONTRACTOR under this contract, neither this contract nor any of the rights and obligations of CONTRACTOR hereunder shall be assigned or transferred in whole or in part without the prior written consent of METRO. Any such assignment or transfer shall not release CONTRACTOR from its obligations hereunder.

NOTICE OF ASSIGNMENT OF ANY RIGHTS TO MONEY DUE TO CONTRACTOR UNDER THIS CONTRACT MUST BE SENT TO THE ATTENTION OF:

**METRO'S CHIEF ACCOUNTANT  
DIVISION OF ACCOUNTS  
DEPARTMENT OF FINANCE  
222 THIRD AVENUE NORTH, SUITE 750  
NASHVILLE, TENNESSEE 37201**

- XXIX. Entire Contract.** This contract sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.
- XXX. Force Majeure.** No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.
- XXXI. Governing Law.** The validity, construction and effect of this contract and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee. Tennessee law shall govern regardless of any language in any attachment or other document that the CONTRACTOR may provide.
- XXXII. Venue.** Any action between the parties arising from this agreement shall be maintained in the courts of Davidson County, Tennessee.
- XXXIII. Severability.** Should any provision of this contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this contract.

**XXXIV. Notices and Designation of Agent for Service of Process.**

A. All notices to METRO shall be mailed or hand delivered to:

**Department:** Division of Purchases  
**Att'n:** Jeff L. Gossage  
**Addr:** 222 Third Avenue, North  
Suite 601  
Nashville, Tennessee 37201

B. Notices to CONTRACTOR shall be mailed or hand delivered to:

**CONTRACTOR:**

**Att'n:**

**Addr:**

**Telephone:**

**Fax:**

**E-mail:**

C. CONTRACTOR designates the following as the CONTRACTOR's agent for service of process and will waive any objection to service of process if process is served upon this agent:

**Designated Agent:**

**Att'n:**

**Addr:**

**XXXV. Effective Date.** This contract shall not be binding upon the parties until it has been signed first by the CONTRACTOR and then by the authorized representatives of the Metropolitan Government and has been filed in the office of the Metropolitan Clerk.

**THE METROPOLITAN GOVERNMENT  
OF NASHVILLE AND DAVIDSON  
COUNTY**

**APPROVED AS TO PROJECT SCOPE:**

\_\_\_\_\_

Department Head

**APPROVED AS TO COMPLIANCE WITH  
PROCUREMENT CODE:**

\_\_\_\_\_

Purchasing Agent

**APPROVED AS TO AVAILABILITY  
OF FUNDS:**

\_\_\_\_\_

Director of Finance

**APPROVED AS TO PROOF OF  
INSURANCE:**

\_\_\_\_\_

Risk Manager

**APPROVED AS TO FORM AND  
LEGALITY:**

\_\_\_\_\_

Metropolitan Attorney

**FILED IN THE OFFICE OF THE  
METROPOLITAN CLERK:**

\_\_\_\_\_

—

Date:

\_\_\_\_\_

**CONTRACTOR**

Company: \_\_\_\_\_

BY: \_\_\_\_\_

Print:

\_\_\_\_\_

Title:

\_\_\_\_\_

Sworn to and subscribed to before me, a  
Notary Public, this \_\_\_\_\_  
day of \_\_\_\_\_, 200 \_\_, ,  
by \_\_\_\_\_,  
the \_\_\_\_\_ of  
CONTRACTOR and duly authorized to  
execute this instrument on Contractor's  
behalf.

\_\_\_\_\_

Notary Public

My Commission Expires \_\_\_\_\_

Exhibit A  
**Pricing**

*The pricing model for this contract is as follows:*

Exhibit B

# **Escalation/De-escalation**

*This Exhibit shall set forth the method of calculation, if permitted by the contract, for price adjustments in subsequent contract periods.*



Exhibit C  
**ACH Form for Electronic Payment**

*This Exhibit must be completed by the CONTRACTOR to facilitate payment of services.*

**METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY  
DEPARTMENT OF FINANCE  
TREASURY DIVISION  
ACH (AUTOMATED CLEARING HOUSE) CREDITS**

**Company**

**Name:**

**Federal Identification Number or Social Security Number** (under which you are doing business with Metro)

I (We) hereby authorize the Treasurer of the Metropolitan Government of Nashville and Davidson County, hereafter called METRO TREASURER, to initiate credit entries to my (our) (*select type of account*) ☐ CHECKING or ☐ SAVINGS account indicated below and the depository named below, hereinafter called DEPOSITORY, to credit the same to such account.

This authority is to remain in full force and effect until METRO TREASURER has received written notification from me (or either of us) of its termination in such time and in such manner as to afford METRO TREASURER and DEPOSITORY a reasonable opportunity to act on it.

Many banking institutions use different numbers for ACH. Please call your bank for verification of ACH transit and account number.

Bank Official contacted: \_\_\_\_\_ Phone \_\_\_\_\_

DEPOSITORY/BANK NAME \_\_\_\_\_ BRANCH \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_

ACH TRANSIT/ABA NO. \_\_\_\_\_ ACCOUNT NO. \_\_\_\_\_

NAME(S) \_\_\_\_\_

\_\_\_\_\_  
(Please print names of authorized account signatory)

SIGNED \_\_\_\_\_ DATE \_\_\_\_\_

SIGNED \_\_\_\_\_ DATE \_\_\_\_\_

Phone \_\_\_\_\_

**Please mail to:**  
**Finance - Division of Accts**  
**Attn: Starla Friedmann**  
**222 3<sup>rd</sup> Ave N Ste 750**  
**Nashville, TN 37201**

**or Fax to: 615-862-6109**  
**Attn: Starla Friedmann**

Exhibit D  
**Affidavits**

**State of** \_\_\_\_\_ **County of** \_\_\_\_\_

*As used herein, "Offeror" will include bidders and proposers.*

**Compliance with Laws:** After first being duly sworn according to law, the undersigned (Affiant) states that he/she is the \_\_\_\_\_ (Title) of \_\_\_\_\_ (Offeror), and that Offeror is presently in compliance with, and will continue to maintain compliance with, all applicable laws. Thus, Affiant states that Offeror has all applicable licenses, including business licenses, copies of which are attached hereto. Finally, Affiant states that Offeror is current on its payment of all applicable gross receipt taxes and personal property taxes.

**Contingent Fees:** In accordance with METRO's 1992 Procurement Code, it is a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a METRO contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. After first being duly sworn according to law, the undersigned (Affiant) states that the Offeror has not retained anyone in violation of the foregoing.

**Nondiscrimination:** Contractor, after being first duly sworn, affirms that by its employment policy, standards and practices it does not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, religion, color, national origin, age or sex and that it is not in violation of and will not violate any applicable laws concerning the employment of individuals with handicaps and/or disabilities. It is the policy of the Metropolitan Government not to discriminate on the basis of age, race, sex, color, religion, national origin or handicap and/or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services and activities. With regard to all aspects of this contract, contractor certifies and warrants it will comply with this policy.

**And Further Affiant Sayeth Not:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Sworn to and subscribed before me on this \_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

Exhibit E  
**Insurance Forms**

*This Exhibit shall house the proof of insurance in the amounts and form set required by the contract.*

**Metro must be listed as an “additional insured” on liability and auto insurance.**